of municipal corporations, it is generally held not to apply where public functions are involved. Accordingly city streets, being easements vested in the public, are not subject to the statute. *Simplot* v. *Chicago, etc. Ry. Co.*, 16 Fed. 350, 361; *Heddleston* v. *Hendricks*, 52 Ohio St. 460, 40 N. E. 408. *Cf. Boone Cty.* v. *Burlington, etc. R. Co.*, 139 U. S. 684; *Gregory* v. *Knight*, 50 Mich. 61, 14 N. W. 700. See 2 ELLIOTT, ROADS AND STREETS, 3 ed., § 1188; 17 HARV. L. REV. 273. Sometimes, however, the interest of the individual may be stronger than that of the public. Accordingly, many courts have adopted doctrines of equitable estoppel which, unlike the statute, can take into consideration the merits of the individual case, especially the element of good faith. See DILLON, MUNICIPAL CORPORATIONS, 5 ed., § 1194. Some courts have denied the city's claim upon the ground of long-continued non-user by the public and acquiescence in the adverse user. *Schooling* v. *City of Harrisburg*, 42 Ore. 494, 71 Pac. 605. But, though the public may in such cases theoretically know its rights, it does not in fact; and so its inaction is not a representation on which the adverse claimant should rely. Where, however, the public, through its officials, makes affirmative representations, the elements of estoppel may well be present. The difficulty, however, is that the adverse claimant theoretically knows, as one of the public, that the public has title. See 2 ELLIOTT, § 1189. But often he may have no actual notice. It would be sacrificing substance to form, if his technical notice should defeat his right to rely upon the city's positive representations. The argument that, as an indictable trespasser, he has not clean hands falls by the same reasoning. But his claim to equitable relief must be strong. He must have acted *bona fide*, and have made expensive, permanent improvements. The city must have made some particular representations such as taxation of the property, as in the principal case, so that it would be inequitable for it to assert its title. The test of this in each case, it is submitted, should be whether on all the facts, the city's acts reasonably justified an inference that his title was recognized. Then if the city's acts were within its general authority, the public is estopped. *People* v. *Wiebolt*, 233 Ill. 572, 84 N. E. 646; *Weber* v. *Iowa City*, 119 Ia. 633, 93 N. W. 637.

RESTRAINT OF TRADE — CONTRACT NOT TO ENGAGE IN A CERTAIN BUSINESS. — The plaintiff company contracted with five laundry companies in the city of Birmingham, one of which was the defendant, that the latter should announce to their customers that they were acting as collection and delivery agents for the plaintiff company and should collect and deliver soiled goods to the plaintiff and make return deliveries of the cleaned goods. The laundry companies promised in addition to collect only for the plaintiff company and not to go into the dry-cleaning business in the locality. The plaintiff company agreed to pay the laundry companies twenty-five percent of the returns on the dry-cleaning business which they brought in and not to go into the laundry business in the locality. There were other laundry concerns and other dry-cleaning companies operating in this particular commercial community. The defendant company failed to perform and suit was brought to enjoin them from breaking their contract, *Held*, that the injunction be denied. *American Laundry Co.* v. *E. & W. Dry Cleaning Co.*, 74 So. 58.

For a discussion of the principles involved, see NOTES, p. 752.

RULE AGAINST PERPETUITIES — VALIDITY OF ESTATES EXPECTANT UPON ESTATES TOO REMOTE. — A will bequeathed residuary personalty to trustees in trust to pay the interest to three persons for life with cross remainders, and "after the death of the three" to pay over and divide the whole among several other persons. It is provided in N. Y. CONSOL. LAWS, ch. 41, § 11, that an attempt to suspend the absolute ownership of personalty during more than two lives in being is void; and this renders invalid the trust during the

three lives. There is an application to determine the validity of the ultimate gift over. *Held*, that it is valid and accelerated. *In re McQueen's Will*, 163 N. Y. Supp. 287.

In the principal case the direction to pay "after the death" of the life tenant, literally construed, would make the gift over contingent upon the survival of the legatees. But this phrase has become a common one to introduce vested remainders. *Napper* v. *Sanders*, Hut. 118. See LEAKE, PROPERTY IN LAND, 2 ed., 245. In general where a gift is made by a direction to divide and pay at a future time, the gift is considered contingent. See *Fulton Trust Co.* v. *Phillips*, 218 N. Y. 573, 583, 113 N. E. 558, 560. But where, as in the principal case, the postponement is wholly for the benefit of the estate in order to let in intervening life estates, the deferring of payment does not prevent the vesting of the legacy. *Packham* v. *Gregory*, 4 Hare 396; *Evans* v. *Scott*, 1 H. L. Cas. 43, 57; *Fuller* v. *Winthrop*, 85 Mass. 51, 60. In the principal case there is no gift over, if the remainderman fails to survive the life tenant. Hence construing the bequest as contingent would result in a partial intestacy, obviously contrary to the purpose of a residuary clause. Thus at common law, the remainder in the principal case would be vested. And under the New York statutes, it is clear that the legatees have a vested interest. See 4 N. Y. CONSOL. LAWS 4164, 4935. England holds that, where there is a vested estate expectant upon a remote gift and this vested estate is a life estate, it is void. *Beard* v. *Westcott*, 5 B. & A. 801. See MARSDEN, RULE AGAINST PERPETUITIES, 288. The testator is held to intend that if part fails, all should fail. See *Monypenny* v. *Dering*, 2 De G., M. & G. 145, 182. The intimation in this country is that otherwise valid gifts of whatever dignity are good, unless to allow them to stand would really involve making a new will for the testator. See *Barrett* v. *Barrett*, 255 Ill. 332, 338, 99 N. E. 625, 627. It is submitted that the valid limitations should be entirely unaffected by the void. See GRAY, RULE AGAINST PERPETUITIES, 3 ed., § 252 *et seq.*; 1 JARMAN, WILLS, 6 ed., 352; LEWIS, LAW OF PERPETUITY, 661; 29 HARV. L. REV. 341. It seems proper, therefore, to hold the ultimate remainder in the principal case good, especially since there is nothing in the will to show any intent of the testator to the contrary. And payment of the valid bequest should be accelerated since a vested remainder is, by definition, ready to take effect whenever and however the preceding estate terminates. *Cf. Greet* v. *Greet*, 5 Beav. 123; CHALLIS, REAL PROPERTY, 2 ed., 179.

STATUTES — STATUTORY PRINCIPLES IN THE COMMON LAW. — The steamship *Amerika* negligently ran into and sank a submarine of the English navy. The English government sues, among other things, for the pensions due the drowned seamen. Lord Campbell's Act and the English Workmen's Compensation Act have allowed actions for death in many cases but not specifically for the present situation. *Held*, that there can be no recovery for death unless the case falls within the express language of the statutes. *Admiralty Commissioners* v. *S. S. Amerika*, [1917] A. C. 38.

For a discussion of the principles involved, see NOTES, p. 742.

TRIAL — PROCEEDINGS IN CAMERA — RIGHT OF COURT MARTIAL TO HEAR CRIMINAL CASE IN CAMERA. — An Irish rebel was tried at a court martial. The trial was held in camera, because it was feared that admission of the public might result in disturbances or intimidation of the witnesses. Rule of Procedure 119 *c* provides that hearings must be held with open doors. A writ of *habeas corpus* is brought on the ground that the court had no jurisdiction to try the case. *Held*, that the writ be dismissed. *King* v. *Governor of Lewes Prison*, 61 Sol. J. 294.

It is the immemorial usage of the common law to try all prisoners in open court, to which spectators are admitted. 1 BISHOP, CRIM. PROC., § 957. And